

**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

ELIZABETH J. MCCABE,

Claimant,

v.

JO-ANN STORES, INC.,

Employer,

and

LIBERTY MUTUAL FIRE INSURANCE  
COMPANY,

Surety,  
Defendants.

**IC 04-511953**

**04-012825**

**04-524200**

**ORDER**

Filed: September 15, 2006

Pursuant to Idaho Code § 72-717, Referee Rinda Just submitted the record in the above-entitled matter, together with her proposed findings of fact and conclusions of law, to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendation of the Referee. The Commission concurs with this recommendation. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant is not entitled to additional medical care, in particular, a second opinion by an orthopedic specialist of her own choosing.
2. Claimant has failed to carry her burden of proving that she has sustained disability in excess of her undisputed 7% whole person impairment.

3. Claimant's request for attorney fees pursuant to Idaho Code §72-804 is deemed waived, as it was not argued at hearing or in the briefing.

4. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all matters adjudicated.

DATED this 15 day of September, 2006.

INDUSTRIAL COMMISSION

/s/\_\_\_\_\_  
Thomas E. Limbaugh, Chairman

/s/\_\_\_\_\_  
James F. Kile, Commissioner

/s/\_\_\_\_\_  
R.D. Maynard, Commissioner

ATTEST:

/s/\_\_\_\_\_  
Assistant Commission Secretary

**CERTIFICATE OF SERVICE**

I hereby certify that on the 15 day of September, 2006, a true and correct copy of the foregoing **ORDER** was served by regular United States Mail upon each of the following persons:

EMIL F PIKE JR  
PO BOX 302  
TWIN FALLS ID 83303-0302

KENT W DAY  
PO BOX 6358  
BOISE ID 83707-6358

djb

/s/\_\_\_\_\_